

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CARLOS A. ORTEGA,

Plaintiff,

v.

A. FLORES, et al.,

Defendants.

Case No. [19-cv-00319-HSG](#)

**ORDER DENYING REQUEST FOR
ATTORNEY AND ATTORNEY FEE
RELIEF; DENYING REQUEST FOR
DEFAULT JUDGMENT**

Re: Dkt. Nos. 21, 22

Plaintiff, an insanity acquittee at Napa State Prison, filed this *pro se* civil rights action pursuant to 42 U.S.C. § 1983 against defendants A. Flores, J. Diaz, Melek, and Dugamis for the excessive use of force. This order addresses Plaintiff's motion requesting appointment of counsel and attorney's fees (Dkt. No. 21), and Plaintiff's motion requesting default judgment (Dkt. No. 22).

Plaintiff has filed a motion requesting that the Court appoint an attorney if his demand for a jury trial is granted. He also asks for attorney's fees pursuant to 42 U.S.C. § 1988(b) and (c) if needed. Dkt. No. 21. Plaintiff's request is DENIED as premature. At this stage of the action, it is unclear whether this case will proceed to trial. The denial is without prejudice to the Court *sua sponte* considering appointment of counsel if the circumstances so warrant.

Plaintiff also requests that the Court enter default judgment in his favor, arguing that Defendants have failed to answer or otherwise defend against the complaint. Dkt. No. 22. Plaintiff's request for default judgment is DENIED. Defendant Flores, Diaz, and Melek were not served until June 11, 2019, Dkt. No. 16, and their answer filed on June 24, 2019, Dkt. No. 18, is thus timely filed. Defendant Dugamis has not yet been served. *See* Dkt. No. 15.


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This order terminates Dkt. Nos. 21 and 22.

IT IS SO ORDERED.

Dated: 7/18/2019


HAYWOOD S. GILLIAM, JR.
United States District Judge